

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DIONTAE JOHAN DUNCAN,  
Plaintiff,  
v.  
CALIFORNIA HEALTHCARE  
RECEIVERSHIP CORP., et al.,  
Defendants.

Case No. 1:20-cv-01288-ADA-SKO (PC)

**ORDER GRANTING EXTENSION OF  
TIME WITHIN WHICH TO FILE  
RESPONSIVE PLEADING ON BEHALF  
OF ALL DEFENDANTS**

(Doc. 98)

Plaintiff Diontae Johan Duncan is proceeding pro se and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff's Eighth Amendment deliberate indifference to serious medical needs claims against Defendants Marciel, Gallienne, Grewal, Taylor, and Jane Does #1 and #2.

**I. RELEVANT PROCEDURAL BACKGROUND**

On June 6, 2023, this Court issued its Order Finding Service Appropriate, directing service of process of Plaintiff's second amended complaint through the Court's e-service pilot program. (Doc. 81.)

On July 20, 2023, the Court granted the California Department of Corrections and Rehabilitation's ("CDCR") motion for a 14-day extension of time within which to advise the

1 Court whether personal service was to be waived as to Defendants. (Doc. 86.) That same date, the  
2 CDCR filed a notice of intent to waive service of process regarding Defendant Marciel and  
3 Taylor (Doc. 87) and a notice of intent *not* to waive service concerning Defendants Gallienne and  
4 Grewal (then identified as W. Gerderal III and G. Graywall) (Doc. 88).

5 Following receipt of information submitted by Plaintiff on August 10, 2023, the Court  
6 issued its Order Finding Re-Service Appropriate as to Certain Defendants on August 17, 2023.  
7 (Doc. 92.)

8 On September 12, 2023, the CDCR filed a notice of intent to waive service concerning  
9 Defendants Grewal and Gallienne. (Doc. 97.)

10 On September 15, 2023, the Attorney General's Office filed a motion for a 60-day  
11 extension of time to file a responsive pleading. (Doc. 98.)

12 **II. DISCUSSION**

13 In their motion, Defendants Marciel and Taylor seek a 60-day extension of time within  
14 which to file a responsive pleading. (Doc. 98.) Defense counsel states she represents Marciel and  
15 Taylor in this action and has substantially completed a responsive pleading on their behalf. (*Id.* at  
16 3, ¶ 5.) Defense counsel notes the Attorney General's Office does not currently represent  
17 Defendants Gallienne and Grewal, but is in the process of determining whether it will represent  
18 these individuals. (*Id.* at 3, ¶ 1.) The responsive pleading on behalf of Marciel and Taylor is due  
19 to be filed September 18, 2023, but on September 12, 2023, the CDCR filed notice of intent to  
20 waive service of process regarding Defendants Gallienne and Grewal. (*Id.* at 3, ¶¶ 1, 6.) The  
21 responsive pleading on behalf of Gallienne and Grewal is due November 11, 2023. (*Id.*) Defense  
22 counsel asserts a 60-day extension of time, up to and including November 17, 2023, would allow  
23 counsel time to determine whether the Attorney General's Office will "undertake representation  
24 of Defendants Gallienne III and Grewal and allow all Defendants to have a single responsive  
25 pleading deadline." (*Id.* at 3, ¶ 7.) Defendant counsel states the extension will not prejudice  
26 Plaintiff, nor significantly delay this action. (*Id.* at 3, ¶ 8.) Finally, defense counsel states the  
27 request is made in good faith, and not for the purpose of delay, harassment, or any improper  
28 reason. (*Id.* at 3, ¶ 10.)

1  
2        The Court will extend the deadline for the filing of a responsive pleading by all  
3 Defendants. *See FTC v. Gill*, 265 F.3d 944, 954-55 (9th Cir. 2001) (noting district court's broad  
4 discretion to control its docket and set deadlines).

### **III. CONCLUSION AND ORDER**

For good cause shown, the request for an extension of time to file a single responsive pleading is **GRANTED**. Defendants Marciel, Taylor, Gallienne and Grewal shall file a responsive pleading **no later than November 17, 2023**.

IT IS SO ORDERED.

11 Dated: **September 18, 2023**

*/s/ Sheila K. Oberto*  
UNITED STATES MAGISTRATE JUDGE